

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DONALD LAY,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration,

Defendant.

CASE NO. 13-cv-05465 BHS

REPORT AND RECOMMENDATION
ON STIPULATED MOTION FOR
REMAND

This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by *Mathews, Secretary of H.E.W. v. Weber*, 423 U.S. 261 (1976). This matter is before the Court on defendant's stipulated motion to remand the matter to the administration for further consideration (ECF No. 13).

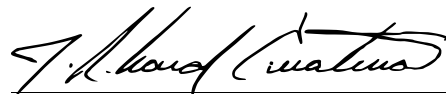
After reviewing defendant's stipulated motion and the relevant record, the undersigned recommends that the Court grant defendant's motion, and reverse and remand this matter to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g).

1 On remand, based on the parties' stipulation, this Court recommends that the
2 administration take the following action:

- 3 • The Administrative Law Judge ("ALJ") shall reassess the claimant's residual functional
4 capacity (20 CFR § 404.1545 and Social Security Rulings 85-16 and 96-8p); and, if
5 warranted, obtain evidence from a vocational expert to determine whether or not there are
6 a significant number of jobs in the national economy that the claimant can perform.
- 7 • Plaintiff shall receive a new hearing, and be allowed to testify and to present evidence at
8 the hearing. The ALJ will make a *de novo* determination as to disability, and issue a new
9 decision.
- 10 • On proper application, plaintiff shall be eligible for attorneys' fees pursuant to the Equal
11 Access to Justice Act, 24 U.S.C. § 2412 *et seq.*

12 Given the facts and the parties' stipulation, the Court recommends that the District Judge
13 immediately approve this Report and Recommendation and order that the case be **REVERSED**
14 and **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g).

15 Dated this 7th day of November, 2013.

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17 J. Richard Creatura
18 United States Magistrate Judge
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